

## **CHAPTER 10**

### **FIRE PREVENTION AND PROTECTION**

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#### **ARTICLE I. IN GENERAL**

##### **SECTION 10-1. SALE, INSTALLATION, ETC. OF FIRE PROTECTION, SUPPRESSION OR DETECTION EQUIPMENT OR SYSTEMS.**

- (a) Any person engaged in selling, servicing, testing, leasing, installing, inspecting, altering, modifying, repairing or removing any portable or fixed fire protection, suppression, or detection equipment or system in the City shall be registered with and operate under a permit issued by the Fire Chief. The fee for such permit shall be as indicated in Section 10-48.
- (b) Any person engaged in the activities listed in (a) above shall demonstrate proof of qualification, in a manner prescribed by the Fire Chief.
- (c) Any person engaged in the activities listed in (a) above shall do so in accordance with the practices, standards, codes and requirements of the National Fire Protection Association, International Code Council, Statewide Fire Prevention Code, Code of the City of Winchester, and the orders of the Fire Chief.
- (d) Failure to comply with the provisions of this section shall be cause for revocation of the permit and shall constitute a class one (1) misdemeanor punishable by confinement in jail for not more than twelve (12) months and a fine of not more than two thousand five hundred dollars (\$2,500), either or both.  
(Ord. of 7-13-76; Ord. No. 007-2004, 2-10-04)

**Cross references**--Building regulations, Ch. 6; flammable or explosive waste materials not to be collected by city, §11-23; parking near fire hydrants or entrances to fire station or in fire lanes, §14-46.

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**State Law Reference--** Code of Virginia, Title 27; authority of city to make regulations for purpose of guarding against danger from accidents by fire, Code of Virginia, § 15.2-1118.

### **SECTION 10-2. RESPONSE TO NUISANCES; REIMBURSEMENT OF COSTS.**

For the purposes of this section, the following terms shall have the following meanings:

1. A nuisance shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, structures which constitute a menace to health and safety of the occupants thereof the public.
2. Responsible party shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released, and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or failures to act caused such public nuisance.

The Common Council, by the Fire Chief or City Manager, may, in addition to any other remedy provided by law, require any responsible party to abate, raze or remove a public nuisance, and may maintain an action to require same.

If the public nuisance presents an imminent and immediate threat to life or property, in the decision of the Fire Chief, the Council, by the Fire Chief or his or her designee, may abate, raze or remove the nuisance or have it removed. In such case, an action may be maintained to recover the costs incurred by the City in such abatement, razing, or removal. (Ord. No. 015-90, 4-10-90; Ord. No. 003-91, 1-15-91; Ord. No. 007-2004, 2-10-04)

**State Law References--**, Code of Virginia, Title 27; authority of city to make regulations for purpose of guarding against danger from accidents by fire, Code of Virginia, § 15.2-1118, authority of city for abatement or removal of nuisances, Code of Virginia, §15.2-1115.

**SECTIONS 10-3 - 10-15. RESERVED.**

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### **ARTICLE II. FIRE DEPARTMENT GENERALLY**

#### **SECTION 10-16. WINCHESTER FIRE AND RESCUE DEPARTMENT; APPOINTMENT, TERM AND REMOVAL OF CHIEF.**

- (a) The Winchester Fire Department shall be renamed the Winchester Fire and Rescue Department. Any reference to the Winchester Fire Department in this code or any other regulations of the City of Winchester shall be deemed to be a reference to the Winchester Fire and Rescue Department.
- (b) The City Manager shall appoint a Fire Chief, such appointment to be for an indefinite period, subject to removal at any time by the City Manager upon written charges of misconduct, or failure to carry out printed regulations of the Fire and Rescue Department or written orders of the City Manager. (Ord. of 4-13-76, §8-1; Ord. No. 007-91, 2-12-91)

#### **SECTION 10-17. GENERAL POWERS AND DUTIES OF CHIEF.**

- (a) Subject to control of the City Manager, Fire Chief is hereby given full power and authority over the department.
- (b) The Fire Chief shall be responsible for the efficient operation of the fire department, with the approval of the City Manager. He shall have the authority to appoint such officers as may be necessary to operate the department, and to make and enforce reasonable rules and regulations not to conflict with state laws or city ordinances.
- (c) At and during a fire or fire drill, the authority of the Fire Chief shall be supreme and unrestricted and he shall not be subject to any orders or directions whatsoever at such time. (Ord. of 4-13-76, §8-2)
- (d) The Fire Chief, the fire official, the fire department, or other responsible authority shall have the authority to investigate the cause, origin and circumstances of any fire explosions or other hazardous condition in accordance with Section 27-15.1 of the Code of Virginia, 1950, as amended. (Ord. No. 007-2004, 2-10-04)

**Cross references**--Members of certain fire companies recognized as part of official safety program, §2-7; authority of fire department officials to direct traffic, §14-9; automatic telephone calls or alarms to fire department, §14-2; calling fire-fighting apparatus without case and malicious activation of fire alarms in public buildings, §14-3.

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**State Law References**--Use of equipment in emergencies beyond territorial limits of city, Code of Virginia, §27-1; contracts of cities to furnish fire protection, §27-2; fire departments and fire companies in cities, §§27-6.1-27-22.

### **SECTION 10-18. FAILURE TO OBEY ORDERS OF CHIEF OR COMMANDING OFFICER AT SCENE OF FIRE.**

It shall be unlawful for any person at the scene of a fire to refuse or neglect to obey the orders of the Fire Chief or, in his absence, the commanding officer of the fire department as designated by the Fire Chief. A violation of this section shall constitute a Class 4 misdemeanor.

(Ord. of 4-13-76, §8-3; Ord. No. 007-2004, 2-10-04)

**State Law Reference**--Similar provisions, Code of Virginia, §27-15.1.

### **SECTION 10-19. PARTICIPATION OF MINORS IN ACTIVITIES OF VOLUNTEER FIRE COMPANIES; SUBMISSION OF APPLICATION; FIRE CHIEF TO FORMULATE AND ADOPT RELATED REGULATIONS.**

Any minor sixteen years of age or older who desires to participate in the activities of the volunteer fire companies of the City of Winchester must submit the proper application form, which may be obtained in the office of the Fire Chief.

Said application shall be prepared by the Fire Chief in a form consistent with the terms and requirements of this article, and the Fire Chief is hereby authorized to formulate and adopt regulations required to achieve compliance with this article.

A completed application shall be submitted to the Fire Chief of the volunteer company with which such minor wishes to work, and must include the notarized signatures of parents work, and work, and must include the birth date of, or guardian(s) of the minor attesting to the applicant, verifying the information contained in the application, and consenting to his or her participation in firefighting activities.

The company Fire Chief shall forward each application, together with his or her recommendation, to the Fire Chief. Following determination that the minor meets criteria for ion in volunteer firefighting activities, the Fire Chief shall notify the appropriate company chief that the application has been approved. (Ord. No. 022-86, 12-09-86)

#### **SECTION 10-19.1. CERTIFICATION**

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Before any minor may work or participate in activities of a volunteer fire company in this City he or she must, within six months of the date of the Fire Chief's approval of his or her application, complete training and attain certification under National Fire Protection Association 1001 Level One Firefighter Standards. (Ord. No. 022-86, 12-09-86)

### **SECTION 10-19.2. PARTICIPATION PERMITTED PENDING CERTIFICATION; LIMITATIONS.**

Prior to attaining certification as required in subsection 10-19.1, a minor 16 years of age or older who has applied pursuant to this article may participate in the activities of a volunteer company. Such participation shall, however, exclude use of power equipment into burning structures with the exception of structures designated for and used in conjunction with firefighter training activities.

Such minor may, however, enter a burned structure during a non-emergency overhaul state of use power equipment if under the direct supervision of a battalion chief, deputy chief, department lieutenant, captain, or the Fire Chief. (Ord. No. 022-86, 12-09-86)

### **SECTION 10-20. PARTICIPATION OF MINORS UNDER THE AGE OF 16 PROHIBITED; EXCEPTION.**

With the exception of individuals enrolled in the Boy Scouts of America Explorer Program, participation of minors under the age of 16 in activities of volunteer fire companies in the City of Winchester is prohibited. (Ord. No. 022-86, 12-09-86)

**State Law Reference**--Subsection 40.1-79.1 providing authority for participation of minors sixteen years of age and older contingent upon adoption of ordinance by governing body.

### **SECTIONS 10-21 - 10-29. RESERVED.**

## **ARTICLE III. FIRE MARSHAL**

### **SECTION 10-30. APPOINTMENT OF FIRE MARSHAL AND ASSISTANTS.**

The Fire Chief is hereby appointed fire marshal for the City. The two (2) top-ranking officers appointed by the Fire Chief pursuant to Section 10-17 are hereby appointed assistant fire marshals and, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal. (Ord. of 10-11-77, §8-4)

**State Law Reference**--Authority to appoint fire marshal and assistants, Code of Virginia, §§27-30, 27-36.

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### **SECTION 10-31. OATH OF OFFICE.**

The fire marshal and his assistants, before entering upon their duties, shall take an oath before the clerk of the circuit court for the City to faithfully discharge the duties of such office. The certificate of such oath shall be returned to the clerk of the city council and preserved by him. (Ord. of 10-11-77, §8-8)

**State Law Reference**--Similar provisions, Code of Virginia, §27-37.

### **SECTION 10-32. GENERAL POWERS AND DUTIES; COMPENSATION.**

The fire marshal and his assistants shall have the powers and duties set forth in Chapter 3 of Title 27 (§27-30 *et seq.*) of the Code of Virginia. They shall receive no additional compensation beyond that received as fire department officers. (Ord. of 10-11-77, §8-5)

### **SECTION 10-33. POWER TO ARREST, TO PROCURE AND SERVE WARRANTS AND TO ISSUE SUMMONS.**

In addition to such other duties as may be prescribed by the law, the fire marshal and his assistants shall have the authority to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances, subject, however, to the limitations prescribed in Section 27-34.2 of the Code of Virginia. (Ord. of 10-11-77, §8-6)

**State Law Reference**--Local fire marshals, Code of Virginia, §27-30 *et seq.*

### **SECTION 10-34. POWER TO ORDER IMMEDIATE COMPLIANCE WITH LAW, ETC., OR PROHIBIT USE OF BUILDING OR EQUIPMENT.**

The fire marshal and his assistants shall have the authority to exercise, in the same manner and subject to the same conditions, the powers conferred upon other authorities by Section 27-81(b) of the Code of Virginia, subject to the limitations prescribed in Section 27-34.3 of the Code of Virginia. (Ord. of 10-11-77, §8-7)

### **SECTIONS 10-35 - 10-45. RESERVED.**

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### **ARTICLE IV. FIRE PREVENTION CODE.**

#### **SECTION 10-46. ADOPTION; AVAILABILITY OF COPIES.**

The Virginia Statewide Fire Prevention Code, 2000 Edition including any later amendments made thereto over time, and the Local Supplement as amended, are hereby adopted and incorporated herein by reference. Copies are available for examination during normal business hours, Monday through Friday in the Fire and Rescue Department Administrative office, Timbrook Public Safety Building. (Ord. of 4-12-78; Ord. No. 022-88, 4-12-88; Ord. No. 007-93, 02-09-93; Ord. No. 029-97 10-14-97; Ord No. 007-2004, 2-10-04)

**State Law References**--Authority to adopt fire prevention code, Code of Virginia, §§27-97 and 27-98.

#### **SECTION 10-47. REPEALED.**

(Ord. No. 007-93, 02-09-93)

#### **SECTION 10-48. PERMIT FEES.**

The fee for any permit required by the Statewide Fire Prevention Code adopted by this article shall be thirty-five dollars (\$35.00), except that the fee for a permit to sell, store or use fireworks shall be one hundred and fifty dollars (\$150.00). Operational permit fees may be waived for non-profit organizations or for community wide events, by the Fire Chief or his or her designee. (Ord. of 7-13-76; Ord No. 022-88, 4-12-88; Ord. No. 007-2004, 2-10-04)

#### **SECTION 10-49. REPEALED.**

(Ord. No. 029-90, 7-10-90)

#### **SECTIONS 10-50 - 10-59. RESERVED.**

### **ARTICLE V. FAMILY DAY CARE HOMES**

#### **SECTION 10-60. APPLICABILITY.**

The provisions of this article shall pertain to all new and existing family day care homes as defined in Section 63.2-100 of the Code of Virginia, as amended.

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This article shall apply only to those family day care homes where five (5) through nine (9) children are cared for.

Facilities caring for more than nine (9) children shall comply with the Fire Prevention Code and regulations set forth by the Virginia Department of Social Services. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

### **SECTION 10-61. INSPECTIONS.**

The fire official shall inspect all family day care homes at least once each calendar year. The purpose of this inspection will be to ascertain and cause to have corrected any conditions liable to cause a fire, endanger the life of occupants, contribute to the spread of fire, interfere with firefighting operations, or any violations of the provisions or intent of this code or any other ordinance affecting fire safety. (Ord. No. 005-83, 3-08-83).

### **SECTION 10-62. RIGHT OF ENTRY.**

Whenever necessary for the purpose of enforcing the provisions of this article, or whenever the fire official has reasonable cause to believe that there exist on such premises conditions which constitute a fire hazard, the fire official may enter such premises during normal hours of operation for the purpose of making an inspection. Prior to entry the fire official shall present proper credentials and request entry. If such entry is refused, the fire official shall have recourse to every remedy provided by law to secure entry. (Ord. No. 005-83, 3-08-83)

### **SECTION 10-63. PERMITS.**

It shall be unlawful to engage in family day care home activities without obtaining and maintaining a valid permit as issued by the Fire and Rescue Department.

Permits as required by this article shall be maintained on the designated premises, and shall at all times be subject to inspection by the fire official. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

### **SECTION 10-64. APPEALS.**

Decisions of the fire official may be appealed to the Local Board of Fire Prevention Code Appeals (BFPCA) as prescribed in Section 112.0 Appeals, of the Statewide Fire Prevention Code. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)



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### **SECTIONS 10-65 - 10-70. RESERVED.**

#### **SECTION 10-71. MEANS OF EGRESS.**

- (a) Each floor occupied by children shall have not less than two remote independent means of egress.
- (b) Travel distance to an exit shall not exceed 150 feet. (Ord. No. 005-83, 3-08-83)

#### **SECTION 10-72. DISCHARGE FROM EXITS.**

- (a) Areas utilized as sleeping areas for children and located above the floor of exit discharge shall be provided with an exit way, by enclosed stairway or other enclosed means, to outside grade level discharge.
- (b) Where children are located no more than one story below the level of exit discharge (basement), at least one exit directly to the outside ground level shall be provided. Children shall not occupy areas more than one story below the level of exit discharge. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

#### **SECTION 10-73. ILLUMINATION OF MEANS OF EGRESS.**

Means of egress shall be illuminated by normal means of illumination provided the facility is utilized during normal daylight hours. If the facility is utilized after daylight hours, the means- of egress shall be illuminated with approved emergency lighting units. Approved emergency lighting units shall comply with National Fire Protection Association 101, Line Safety (1997 edition). (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

#### **SECTION 10-74. PORTABLE EXTINGUISHERS.**

Portable fire extinguisher as specified by the National Fire Protection Association 10 (1998 edition) or by the fire official shall be installed in the following locations:

- (1) Food preparation area(s);
- (2) Area where central heating equipment is located;
- (3) Other high hazard areas as specified by the fire official.  
(Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

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### **SECTION 10-75. DETECTION EQUIPMENT.**

Family day care homes shall have at least one (1) smoke detector installed. The location of the smoke detector will be such as to separate the living area from the area utilized by the children as a sleeping area.

In those facilities having more than one level or story, each level or story shall be equipped with at least one (1) smoke detector as specified and located by the fire official. When activated, the smoke detector shall provide an alarm suitable to warn all occupants within the facility.

All detection devices installed in accordance with this section shall meet the criteria set forth in National Fire Protection Association 72 National Fire Alarm Code (1996 edition). (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

### **SECTION 10-76. SPECIAL REQUIREMENTS.**

- (a) Every closet door latch shall be such that children can open the door from inside the closet.
- (b) Bathroom door locks shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff. (Ord. No. 005-83, 3-08-83)

### **SECTION 10-77. EVACUATION PLAN.**

Each family day care home shall have an established evacuation plan for the facility. The plan shall be in written and/or schematic form, and shall be readily accessible to all staff members. Such evacuation plan shall also be available for review by parents and the fire official upon request. (Ord. No. 005-83, 3-08-83)

### **SECTION 10-78. HEATING EQUIPMENT.**

- (a) Unvented room heaters shall not be permitted. Kerosene, gas, and solid wood burning appliances shall be installed in accordance with the Statewide Fire Prevention Code and/or the Uniform Statewide Building Code.
- (b) Heating equipment and associated components shall be maintained at regular intervals of not more than one (1) year periods. Heating equipment and associated components shall be maintained in a condition assuring operation in a safe

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manner as related to fire safety. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

### **SECTION 10-79. ELECTRICAL WIRING.**

- (a) Electrical wiring within family day care homes shall be in compliance with the National Fire Code as certified by the electrical inspector upon request of the fire official.
- (b) Protective receptacle covers shall be installed on all unused receptacles so as to prevent children from introducing foreign objects into these receptacles and becoming injured. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

### **SECTION 10-80. GENERAL.**

Whenever the fire official, or his or her designee, shall find in or upon any family day care home structure or premises dangerous or hazardous conditions or materials as defined below, the fire official or his or her designee shall order same to be remedied or removed in accordance with the provisions of this Code.

- (1) Any dangerous conditions which are liable to cause or contribute to the spread of fire in or upon said premises;
- (2) Obstruction to or upon fire escapes, stairs, passageways, doors, or windows liable to interfere with the egress of occupants- or the operations of the fire department in case of fire;
- (3) Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts;
- (4) Accumulations of grease on kitchen cooking equipment or oil, grease, or dirt upon, under, or around any mechanical equipment;
- (5) Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible material; and
- (6) Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment, or appliances. (Ord. No. 005-83, 3-08-83; Ord. No. 007-2004, 2-10-04)

